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CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2196**

**Introduced by Assembly Member Washington**

February 19, 1998

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An act to amend Section 8715 of the Family Code, and to add Section 366.29 to, and to amend Sections 16002 and 16501.1 of, the Welfare and Institutions Code, relating to adoption of dependent children.

LEGISLATIVE COUNSEL'S DIGEST

AB 2196, as amended, Washington. Adoption of dependent children: contact with siblings.

Existing law provides that, when a child has been adjudged a dependent of the juvenile court, the juvenile court may, in specified circumstances, permanently terminate the rights of the parent or parents of the child and order that the child be placed for adoption. In those cases, the petition for adoption of the child may be filed, and the adoption hearing may be held, in the juvenile court or in any other court as permitted by law.

This bill would authorize the court, in those adoption proceedings and with the consent of the adoptive parents, to include in the adoption order provisions relating to facilitation of postadoptive sibling contact. The bill would also authorize

the adoptive parents or parents to terminate that sibling contact upon written notice to the court that continued contact poses a threat to the health, safety, or well-being of the child.

Existing law requires the State Department of Social Services or licensed county adoption agency to submit a full report of the facts of the case to the court in any adoption proceeding.

This bill would require that report to describe whether specified steps have been taken to facilitate ongoing sibling contact and the plan, if any, for facilitation of postadoptive sibling contact in those cases where the child has been declared a dependent of, and has been freed for adoption by, the juvenile court.

Existing law requires the responsible local agency to complete a case plan for each child receiving child welfare services. When the child has been removed from the home, the case plan must include a recommendation regarding the appropriateness of visitation between the child and the child's siblings. Existing law also requires the responsible local agency to make diligent efforts to maintain sibling contacts for dependent children in foster care unless the court determines that sibling interaction is detrimental to the child.

This bill would require, in cases where parental rights have been terminated and the child is to be placed for adoption, that the recommendation regarding sibling visitation be included in the child's case plan. The bill would also require, in those cases, that the licensed county adoption agency or the State Department of Social Services take specified steps to facilitate ongoing sibling contacts, except where the court determines that contact is detrimental to the child. By imposing these new duties on local agencies, the bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.



This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 8715 of the Family Code is  
2 amended to read:

3 8715. (a) The department or licensed adoption  
4 agency, whichever is a party to or joins in the petition,  
5 shall submit a full report of the facts of the case to the  
6 court.

7 (b) If the child has been adjudged to be a dependent  
8 of the juvenile court pursuant to Section 300 of the  
9 Welfare and Institutions Code, and has thereafter been  
10 freed for adoption by the juvenile court, the report  
11 required by this section shall describe whether the  
12 requirements of subdivision (e) of Section 16002 of the  
13 Welfare and Institutions Code have been completed and  
14 what, if any, plan exists for facilitation of postadoptive  
15 contact between the child who is the subject of the  
16 adoption petition and his or her siblings and half-siblings.

17 (c) Where a petition for adoption by a relative has  
18 been filed with a kinship adoption agreement pursuant to  
19 Section 8714.7, the report shall address whether the  
20 kinship adoption agreement is in the best interest of the  
21 child who is the subject of the petition. The department  
22 may also submit a report in those cases in which a licensed  
23 adoption agency is a party or joins in the adoption  
24 petition.

25 SEC. 2. Section 366.29 is added to the Welfare and  
26 Institutions Code, to read:

27 366.29. (a) When a court, pursuant to Section 366.26,  
28 orders that a dependent child be placed for adoption,  
29 nothing in the adoption laws of this state shall be  
30 construed to prevent the prospective adoptive parent or  
31 parents of the child from expressing a willingness to

1 facilitate postadoptive sibling contact. With the consent  
2 of the adoptive parent or parents, the court may include  
3 in the final adoption order provisions for the adoptive  
4 parent or parents to facilitate postadoptive sibling  
5 contact. In no event shall the continuing validity of the  
6 adoption be contingent upon the postadoptive contact,  
7 nor shall the ability of the adoptive parent or parents and  
8 the child to change residence within or outside the state  
9 be impaired by the order for contact.

10 (b) If, following entry of an order for sibling contact  
11 pursuant to subdivision (a), it is determined by the  
12 adoptive parent or parents that sibling contact poses a  
13 threat to the health, safety, or well-being of the adopted  
14 child, the adoptive parent or parents may terminate the  
15 sibling contact, provided that the adoptive parent or  
16 parents shall submit written notification to the court  
17 within 10 days after terminating the contact, which  
18 notification shall specify to the court the reasons why the  
19 health, safety, or well-being of the adopted child would be  
20 threatened by continued sibling contact.

21 SEC. 3. Section 16002 of the Welfare and Institutions  
22 Code is amended to read:

23 16002. (a) It is the intent of the Legislature to  
24 maintain the continuity of the family unit, and ensure the  
25 preservation and strengthening of the child's family ties  
26 by ensuring that when siblings have been removed from  
27 their home, either as a group on one occurrence or  
28 individually on separate occurrences, the siblings will be  
29 placed in foster care together, unless it has been  
30 determined that placement together is not in the best  
31 interest of one or more siblings. The Legislature  
32 recognizes that in order to ensure the placement of a  
33 sibling group in the same foster care placement,  
34 placement resources need to be expanded.

35 (b) The responsible local agency shall make a diligent  
36 effort in all out-of-home placements of dependent  
37 children, including those with relatives, to maintain  
38 sibling togetherness and contact. When maintaining  
39 sibling togetherness is not possible, diligent effort shall be  
40 made, and a case plan prepared, to provide for ongoing

1 and frequent interaction among siblings until family  
2 reunification is achieved, or, if parental rights are  
3 terminated, as part of developing the permanent plan for  
4 the child. If the court determines by a preponderance of  
5 the evidence that sibling interaction is detrimental to a  
6 child or children, the reasons for the determination shall  
7 be noted in the court order, and interaction shall be  
8 suspended.

9 (c) When there has been a judicial suspension of  
10 sibling interaction, the reasons for the suspension shall be  
11 reviewed at each periodic review hearing pursuant to  
12 Section 366. When the court determines that sibling  
13 interaction can be safely resumed, that determination  
14 shall be noted in the court order and the case plan shall  
15 be revised to provide for sibling interaction.

16 (d) If the case plan for the child has provisions for  
17 sibling interaction, the child, or his or her parent or legal  
18 guardian shall have the right to comment on those  
19 provisions.

20 (e) If parental rights are terminated and the court  
21 orders a dependent child to be placed for adoption, the  
22 licensed county adoption agency or the State  
23 Department of Social Services shall take all of the  
24 following steps to facilitate ongoing sibling contact,  
25 except in those cases provided in subdivision (b) where  
26 the court determines by a preponderance of the evidence  
27 that sibling interaction is detrimental to the child:

28 (1) Include in training provided to prospective  
29 adoptive parents information about the importance of  
30 sibling relationships to the adopted child and counseling  
31 on methods for maintaining sibling relationships.

32 (2) Provide prospective adoptive parents with  
33 information about siblings or half-siblings of the child,  
34 ~~subject to the court's approval of this disclosure of~~  
35 ~~information.~~ *except the address where the siblings or*  
36 *half-siblings of the children reside. However, this address*  
37 *may be disclosed by court order for good cause shown.*

38 (3) Encourage prospective adoptive parents to make  
39 a plan for facilitating postadoptive contact between the

1 child who is the subject of a petition for adoption and any  
2 siblings or half-siblings of this child.

3 (f) For the purpose of placement and visitation  
4 “sibling” is defined as sister, brother, half-sister,  
5 half-brother, or as appropriate, stepsister or stepbrother.

6 (g) The court documentation on sibling placements  
7 required under this section shall not require the  
8 modification of existing court order forms until the Child  
9 Welfare Services Case Management System is  
10 implemented on a statewide basis.

11 SEC. 4. Section 16501.1 of the Welfare and Institutions  
12 Code is amended to read:

13 16501.1. (a) The Legislature finds and declares that  
14 the foundation and central unifying tool in child welfare  
15 services is the case plan.

16 (b) The Legislature further finds and declares that a  
17 case plan ensures that the child receives protection and  
18 proper case management, and that services are provided  
19 to the parents or other caretakers as appropriate. A case  
20 plan shall be based upon the principles of this section and  
21 shall document that a preplacement assessment of the  
22 service needs of the child and family, and preplacement  
23 preventive services, have been provided, and that  
24 reasonable efforts to prevent out-of-home placement  
25 have been made.

26 (c) When out-of-home placement is used to attain case  
27 plan goals, the decision regarding choice of placement  
28 shall be based upon selection of the least restrictive or  
29 most familylike and most appropriate setting and  
30 selection of the environment best suited to meet the  
31 child’s special needs and best interest, or both. The  
32 selection shall consider, in order of priority, placement  
33 with relatives, tribal members, and foster family, group  
34 care, and residential treatment pursuant to Section 7950  
35 of the Family Code.

36 (d) A written case plan shall be completed within 30  
37 days of the initial removal of the child or of the in-person  
38 response required under subdivision (f) of Section 16501  
39 if the child has not been removed from his or her home,  
40 or by the date of the dispositional hearing pursuant to

1 Section 358, whichever occurs first. The case plan shall be  
2 updated, as the service needs of the child and family  
3 dictate. At a minimum, the case plan shall be updated in  
4 conjunction with each status review hearing conducted  
5 pursuant to Section 366.21, and the hearing conducted  
6 pursuant to Section 366.26, but no less frequently than  
7 once every six months.

8 (e) The child welfare services case plan shall be  
9 comprehensive enough to meet the juvenile court  
10 dependency proceedings requirements pursuant to  
11 Article 6 (commencing with Section 300) of Chapter 2 of  
12 Part 1 of Division 2.

13 (f) The case plan shall be developed as follows:

14 (1) The case plan shall be based upon an assessment of  
15 the circumstances that required child welfare services  
16 intervention.

17 (2) The case plan shall identify specific goals and the  
18 appropriateness of the planned services in meeting those  
19 goals.

20 (3) The case plan shall identify the original allegations  
21 of abuse or neglect, as defined in Article 2.5 (commencing  
22 with Section 11164) of Chapter 2 of Title 1 of Part 4 of the  
23 Penal Code, or the conditions cited as the basis for  
24 declaring the child a dependent of the court pursuant to  
25 Section 300, or all of these, and the other precipitating  
26 incidents that led to child welfare services intervention.

27 (4) The case plan shall include a description of the  
28 schedule of the social worker contacts with the child and  
29 the family or other caretakers. The frequency of these  
30 contacts shall be in accordance with regulations adopted  
31 by the State Department of Social Services. If the child  
32 has been placed in foster care out-of-state, the county  
33 social worker or a social worker on the staff of the social  
34 service agency in the state in which the child has been  
35 placed shall visit the child in the home or institution at  
36 least every 12 months and submit a report to the court on  
37 each visit.

38 (5) When out-of-home services are used, the  
39 frequency of contact between the natural parents or legal  
40 guardians and the child shall be specified in the case plan.

1 The frequency of those contacts shall reflect overall case  
2 goals, and consider other principles outlined in this  
3 section.

4 (6) When out-of-home placement is made, the case  
5 plan shall include documentation of the provisions  
6 specified in subdivisions (b), (c), and (d) of Section  
7 16002.

8 (7) When out-of-home placement is made in a foster  
9 family home, group home or other child care institution  
10 that is either a substantial distance from the home of the  
11 child's parent or out-of-state, the case plan shall specify  
12 the reasons why that placement is in the best interest of  
13 the child.

14 (8) When out-of-home services are used, or when  
15 parental rights have been terminated and the case plan  
16 is placement for adoption, the case plan shall include a  
17 recommendation regarding the appropriateness of  
18 unsupervised visitation between the child and any of the  
19 child's siblings. This recommendation shall include a  
20 statement regarding the child's and the siblings'  
21 willingness to participate in unsupervised visitation. If the  
22 case plan includes a recommendation for unsupervised  
23 sibling visitation, the plan shall also note that information  
24 necessary to accomplish this visitation has been provided  
25 to the child or to the child's siblings.

26 (9) When out-of-home services are used and the goal  
27 is reunification, the case plan shall describe the services  
28 to be provided to assist in reunification and the services  
29 to be provided concurrently to achieve legal permanency  
30 if efforts to reunify fail.

31 (10) (A) Parents and legal guardians shall have an  
32 opportunity to review the case plan, sign it whenever  
33 possible, and then shall receive a copy of the plan. In any  
34 voluntary service or placement agreement, the parents  
35 or legal guardians shall be required to review and sign the  
36 case plan. Whenever possible, parents and legal  
37 guardians shall participate in the development of the case  
38 plan.

39 (B) Parents and legal guardians shall be advised that,  
40 pursuant to Section 1228.1 of the Evidence Code, neither



1 their signature on the child welfare services case plan nor  
2 their acceptance of any services prescribed in the child  
3 welfare services case plan shall constitute an admission of  
4 guilt or be used as evidence against the parent or legal  
5 guardian in a court of law. However, they shall also be  
6 advised that the parent's or guardian's failure to  
7 cooperate, except for good cause, in the provision of  
8 services specified in the child welfare services case plan  
9 may be used in any hearing held pursuant to Section  
10 366.21 or 366.22 as evidence.

11 (11) The case plan shall be included in the court report  
12 and shall be considered by the court at the initial hearing  
13 and each review hearing. Modifications to the case plan  
14 made during the period between review hearings need  
15 not be approved by the court if the casework supervisor  
16 for that case determines that the modifications further  
17 the goals of the plan.

18 (g) If the court finds, after considering the case plan,  
19 that unsupervised sibling visitation is appropriate and has  
20 been consented to, the court shall order that the child or  
21 the child's siblings, and the child's prospective adoptive  
22 parents, if applicable, be provided with information  
23 necessary to accomplish this visitation. Nothing in this  
24 section shall be construed to require or prohibit the social  
25 worker's facilitation, transportation, or supervision of  
26 visits between the child and his or her siblings.

27 (h) The case plan documentation on sibling  
28 placements required under this section shall not require  
29 modification of existing case plan forms until the Child  
30 Welfare Services Case Management System is  
31 implemented on a statewide basis.

32 (i) The department, in consultation with the County  
33 Welfare Directors Association and other advocates, shall  
34 develop standards and guidelines for a model relative  
35 placement search and assessment process based on the  
36 criteria established in Section 361.3. These guidelines  
37 shall be incorporated in the training described in Section  
38 16206. These model standards and guidelines shall be  
39 developed by January 1, 1999.

1 SEC. 5. Notwithstanding Section 17610 of the  
2 Government Code, if the Commission on State Mandates  
3 determines that this act contains costs mandated by the  
4 state, reimbursement to local agencies and school  
5 districts for those costs shall be made pursuant to Part 7  
6 (commencing with Section 17500) of Division 4 of Title  
7 2 of the Government Code. If the statewide cost of the  
8 claim for reimbursement does not exceed one million  
9 dollars (\$1,000,000), reimbursement shall be made from  
10 the State Mandates Claims Fund.

11 Notwithstanding Section 17580 of the Government  
12 Code, unless otherwise specified, the provisions of this act  
13 shall become operative on the same date that the act  
14 takes effect pursuant to the California Constitution.

